
STATUTORY INSTRUMENTS

2016 No. 721

The Dangerous Goods in Harbour Areas Regulations 2016

PART 6

MISCELLANEOUS AND GENERAL

Byelaws

25.—(1) A statutory harbour authority which is either—

- (a) a local authority; or
- (b) a public authority,

may, subject to the provisions in Schedule 4, make byelaws in respect of its harbour area prohibiting the entry or regulating the entry, carriage, handling or storage of dangerous goods.

- (2) Byelaws must not conflict with these Regulations or with any other statutory provision.
- (3) Byelaws are limited to matters relating to the harbour area.
- (4) Byelaws may contain provisions for enforcement.

Enforcement

26.—(1) Subject to section 18(1A) of the 1974 Act and paragraphs (2) and (3), the Health and Safety Executive is responsible for enforcing these Regulations.

(2) A statutory harbour authority is responsible for enforcing regulations 6, 7, 8, 9, 13(3) and 21 against persons other than itself.

(3) The Office for Nuclear Regulation is responsible for enforcing these Regulations in any harbour area which is, or forms part of, an authorised defence site or a new nuclear build site.

(4) In this regulation “authorised defence site” and “new nuclear build site” have the meanings given in the Health and Safety (Enforcing Authority) Regulations 1998.

27. The exercise of due diligence to avoid the commission of an offence is a defence in any proceedings under these Regulations or byelaws made under these Regulations.

Exemptions

28.—(1) Subject to paragraph (2), the Health and Safety Executive may, by a certificate in writing, exempt any person or class of persons, from any requirement or prohibition imposed by or under these Regulations, and any such exemption may be granted subject to conditions and to a time limit and may be revoked at any time by a certificate in writing.

(2) The Health and Safety Executive shall not grant any exemption unless, having regard to the circumstances of the case and in particular to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactment which apply to the case;

it is satisfied that neither the health or safety of persons, nor the security of any explosive, likely to be affected by the exemption will be prejudiced in consequence of it.

(3) The Secretary of State may, in the interests of national security, by a certificate in writing, exempt from all or any requirements or prohibitions imposed by these Regulations—

- (a) Her Majesty's forces;
- (b) visiting forces or headquarters;
- (c) any person engaged in the carriage, keeping or supply of any military explosives, if that person is under the direct supervision of a representative of the Ministry of Defence,

and any such exemption may be granted subject to conditions and time limit and may be revoked by a certificate in writing at any time.

(4) In this regulation "military explosives" has the same meaning as in regulation 25(11)(a) of the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009(1).

Transitionals

29. An emergency plan prepared under regulation 26 of the 1987 Regulations continues to have effect as if it were in place as required under regulation 10(1) and subject to review under regulation 10(4) of these Regulations.

30. An explosives licence granted under Part IX of the 1987 Regulations continues to have effect in accordance with any terms, conditions and limitations that applied to that grant.

31. Byelaws having effect under the 1987 Regulations continue to have effect until revoked.

32. Any extant exemption granted under regulation 46 of the 1987 Regulations continues to have effect until it is revoked or expires.

Revocations and modifications

33. The 1987 Regulations are revoked.

34. Schedule 5 (which makes consequential amendments) has effect.

Review

35.—(1) Before the end of the review period, the Secretary of State must—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) "Review period" means the period of five years beginning with the date on which these Regulations come into force.

(1) *S.I. 2009/1348*, the definition was substituted by *S.I. 2011/1885*, there are other amendments to the S.I. which are not relevant to these Regulations.

